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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,294	10/26/2001	Lawrence J. Karr	50037.65USU1/177809.2	7483

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2685

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,294

Applicant(s)

KARR ET AL.

Examiner

Duc M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,40-42 and 44-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,40-42 and 44-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This action is in response to applicant's response filed on 12/17/04. Claims 1, 40-42, 44-61 are now pending in the present application. **This action is made final.**

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1, 40** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kaiser** et al (US Pat. No. **6,060,996**).

Regarding claim **40**, **Kaiser** discloses a wireless communication (paging) system having local and wide-area reception modes, comprising :

a broadcast transmitter configured to transmit to a device over a subcarrier channel to a wide area (see Figs. 1, 8, ref. 108 and col. 2, line 62 – col. 3, line 5); and

a localcast transmitter (mobile paging transceiver) coupled to a data source and configured to transmit over a local area and in a locally-unused (outside band) FM frequency (see ref. 130, col. 2, lines 33-40 and col. 4, lines 13-22), wherein

a mobile device including a receiver and a transmitter and is configured to receive and transmit data from/to the localcast transmitter ; and further configured to receive transmitted data from a wide-area broadcast transmitter (see col. 3, lines 35-53 and col. 7, lines 1-11) and a peer mobile device (since **Kaiser** discloses a two-way

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pager, it is clear that such pager would be able to receive and transmit a paging signal from/to another pager [via the broadcast transmitter or other means], this would read on "communicate with a peer mobile device" as claimed, noting that a peer-to-peer mode is not claimed).

Regarding claim 1, it is rejected for the same reason as set forth in claim 40 above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **41-42** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kaiser** in view of **Miyaki et al** (US Pat No. **5,903,618**).

Regarding claims **41-42**, they are rejected for the same reason as set forth in claim 1 above. In addition, although **Kaiser** is silent on a peer-to-peer mode between a group of mobile devices (see col. 2, lines 25-30), it is noted such peer-to-peer mode is known in the art as disclosed by Miyake (see Fig. 1 and col. 4, lines 25-30). Since **Kaiser** and **Miyake** are analogous arts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the above teaching of **Miyaki** to **Kaiser** for further providing a peer-to-peer mode to pagers in **Kaiser** as well, for providing a mobile device as claimed, so that a groups of pagers which are close to

each other can communicate to each other without the need for a signal has to be transmitted via a base station or a service center, thereby the time for communication between the two terminals can be shortened (see **Miyaki**, col. 1, line 64 – col. 2, line 2).

5. Claims **44-49** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kaiser** in view of **Gaskill** (US Pat No. **5,757,782**).

Regarding claim **44**, the claim is rejected for the same reason as set forth in claim 1 above. In addition, although **Kaiser** is silent on components of a broadcast transmitter, it is noted that components such as I/O controller, interfaces for a localcast transmitter as described in **Kaiser** (see Fig. 3) and components such as encoder, control processor and subcarrier signal generator as described in **Gaskill** (see Figs. 6-7, col. 5, lines 18- 65) for encoding and transmitting digital data into control packets, data packets, subframes and frames at a subcarrier frequency are components obviously required either for the localcast transmitter or the broadcast transmitter, in order to encode and transmit digital data into control and data packets in subframes or frames. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teachings of **Gaskill** and **Kaiser** for provide components as claimed, in order for a transceiver being able to reassemble input data into packets for re-transmission.

Regarding claims **45-49**, they are rejected for the same reason as set forth in claim 1 above. In addition, since such components (data and uplink signaling information) as recited in the claims are known in the art (Official Notice), in order for a

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transceiver to receive input data, reassemble data into packets for transmission, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teachings of **Gaskill** and **Kaiser** for provide components as claimed, in order for a transceiver being able to reassemble input data into packets for re-transmission.

6. Claims **50-60** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kaiser** in view of **Miyaki** and further in view of **Gaskill** (US Pat No. **5,757,782**).

Regarding claim **50**, the claim is rejected for the same reason as set forth in claim 42 above. In addition, although **Kaiser** is silent on components of a broadcast transmitter, it is noted that components such as I/O controller, interfaces for a localcast transmitter as described in **Kaiser** (see Fig. 3) and components such as encoder, control processor and subcarrier signal generator as described in **Gaskill** (see Figs. 6-7, col. 5, lines 18- 65) for encoding and transmitting digital data into control packets, data packets, subframes and frames at a subcarrier frequency are components obviously required for either the localcast transmitter or the broadcast transmitter, in order to encode and transmit digital data into control and data packets in subframes or frames. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teachings of **Gaskill**, **Miyaki** and **Kaiser** for provide components as claimed, in order for a transceiver being able to reassemble input data into packets for re-transmission.

Regarding claims **51-55**, they are rejected for the same reason as set forth in claim 1 above. In addition, since such components (data and uplink signaling information) as recited in the claims are known in the art (Official Notice), in order for a transceiver to receive input data, reassemble data into packets for transmission, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teachings of **Gaskill** and **Kaiser** for provide components as claimed, in order for a transceiver being able to reassemble input data into packets for re-transmission.

Regarding claim **56**, it is rejected for the same reason as set forth in claim 42 above. In addition, **Kaiser** discloses microprocessors, interfaces, antenna, RAM and EEPROM memory for the pager (see Figs. 4-5). Further, although **Kaiser** fails to disclose a realtime component, it is noted that such realtime component is known in the art (Official Notice), in order for a transceiver to synchronize for receiving and transmitting data packets in certain timeslots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teachings of **Gaskill** and **Kaiser** to provide a realtime components as claimed, in order to receive and transmit data packets synchronously.

Regarding claims **57-58**, they are rejected for the same reason as set forth in claim 42 above. In addition, since **Kaiser** discloses a two-way pager, it is clear that such pager would be able to receive or transmit a paging signal to another pager.

Regarding claim **59**, it is rejected for the same reason as set forth in claim 42 above. In addition, it is clear that when receiving a paging signal from another pager, such paging signal is transmitted/received in a localcast mode from pagers.

Regarding claim **60**, it is rejected for the same reason as set forth in claim 42 above. In addition, **Kaiser** discloses the paging device receive both transmission modes using substantially the same circuitry (see Fig. 1 and col. 2, line 59 - col. 5, line 13).

Regarding claim **61**, the claim is rejected for the same reason as set forth in claim 56 above.

Response to Arguments

7. Applicant's arguments filed 12/17/04 have been fully considered but they are not persuasive.

As to claims 1, 40, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., peer-to-peer mode communication) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Here, communicating to a peer device does not imply that the communication should be performed in a direct peer-to-peer mode, but can be any mode.

As to claims 41, 42, 61, Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

For foregoing reasons, the examiner believes that the pending claims are not allowable over the cited prior art.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Cohen** (US Pat. No. 6,862,445), Secondary carrier messaging and advertising method for wireless network portable handset.
- **Johansson** (US 5,913,163), Integrated local communication system.

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- **Blink et al** (US Pat. No. 6,542,751), Multi-mode paging system.

10. Any response to this final action should be mailed to:

Box A.F.

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for formal communications intended for entry)

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or communications from the examiner should be directed to Duc M. Nguyen whose telephone number is (571) 272-7893, Monday-Thursday (9:00 AM - 5:00 PM). Or to Edward Urban (Supervisor) whose telephone number is (571) 272-7899.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-7259.

Duc M. Nguyen

May 2, 2005

